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10/823,876	04/14/2004	Bernhard Beer	18584-0014	6181

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EXAMINER

FERGUSON, MICHAEL P

ART UNIT PAPER NUMBER

3679

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,876

Applicant(s)

BEER ET AL.

Examiner

Michael P. Ferguson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,8,10-19,21,22,24-28,30,31 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,8,10-19,21,22,24-28,30,31 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 1, 2006 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5,8,10-19,21,22,24-28,30,31 and are 33 rejected under 35 U.S.C. 102(b) as being anticipated by Lopez-Crevillen et al. (US 4,394,853).

As to claim 1, Lopez-Crevillen et al. disclose a fastening element capable of use with plastic containers, the fastening element comprising a plurality of first bushings **56**, each having a longitudinal axis, interconnected by connecting bridges **52,54,55**, the connecting bridges each defining a planar axis **54,55** that is essentially parallel to the longitudinal axis of the first bushings, wherein the bushings and connecting bridges are primarily longitudinally connected (bushings **56** are connected to bridges **52,54,55** along

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the longitudinal length of element **52**; thus the bushings and the bridges are longitudinally connected; Figures 3 and 5).

As to claim 2, Lopez-Crevillen et al. disclose a fastening element wherein the bushings **56** are made of the same material (cross-section; Figure 3) as the connecting bridges **52,54,55** connecting the bushings.

As to claim 3, Lopez-Crevillen et al. disclose a fastening element wherein the bushings **56** and connecting bridges **52,54,55** are made of metal (cross-section; Figure 3).

As to claim 4, Lopez-Crevillen et al. disclose a fastening element wherein the first bushings **56** and the connecting bridges **52,54,55** are made of metal (cross-section; Figure 3), and the fastening element is formed as a single piece, or the first bushings and the connecting bridges are joined by welding (column 3 lines 7-8).

As to claim 5, Lopez-Crevillen et al. disclose a fastening element wherein the connecting bridges **52,54,55** are formed as a metal sheet (cross-section; Figure 3).

As to claim 8, Lopez-Crevillen et al. disclose a fastening element wherein the metal sheet **52,54,55** is beaded or has an L-shaped cross-section (cross-section; Figure 3).

As to claim 10, Lopez-Crevillen et al. disclose a plastic container **27,42** (comprising plastic seal **42**) for liquids comprising an opening, a flange **35,36** being formed along at least a portion of the periphery of the opening, the flange having recesses **63** extending through the thickness of the flange to accommodate the first bushings **56** of the fastening element, wherein the upper edge of the connecting bridges

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52,54,55 of the fastening element makes accurate fitting and positive contact at the lower edge of the flange following attachment of the fastening element to the plastic container (Figure 5).

As to claim 11, Lopez-Crevillen et al. disclose a plastic container wherein the plastic container is an engine oil pan or a transmission oil pan (Figure 5).

As to claim 12, Lopez-Crevillen et al. disclose a fastening system capable of use with liquid-proof flanging or attachment of plastic containers for liquids, the fastening system comprising a fastening element having a plurality of first bushings **56** each having a longitudinal axis, interconnected by connecting bridges **52,54,56** each defining a planar axis **54,55** that is parallel to the longitudinal axes of the first bushings, and a flange **35,36**, wherein the bushings and connecting bridges are primarily longitudinally connected (bushings **56** are connected to bridges **52,54,55** along the longitudinal length of element **52**; thus the bushings and the bridges are longitudinally connected; Figures 3 and 5).

As to claim 13, Lopez-Crevillen et al. disclose a fastening system wherein the flange **35,36** is arranged along at least a portion of the periphery of an opening of the plastic container (Figure 5).

As to claim 14, Lopez-Crevillen et al. disclose a fastening system wherein the flange **35,36** has recesses **63** extending through the thickness of the flange to accommodate the first bushings **56** of the fastening element (Figure 5).

As to claim 15, Lopez-Crevillen et al. disclose a fastening system wherein following attachment of the fastening element to the plastic container, the connecting

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bridge **52,54,55** of the fastening element makes accurately fitting and positive contact at the lower edge of the flange **35,36** (Figures 3 and 5).

As to claim 16, Lopez-Crevillen et al. disclose a fastening system wherein the bushings **56** are made of the same material (cross-section; Figure 3) as the connecting bridges **52,54,55** connecting the bushings.

As to claim 17, Lopez-Crevillen et al. disclose a fastening system wherein the bushings **56** and the connecting bridges **52,54,55** are made of metal (cross-section; Figure 3).

As to claim 18, Lopez-Crevillen et al. disclose a fastening system wherein the first bushings **56** and the connecting bridges **52,54,56** are made of metal (cross-section; Figure 3), and that the fastening element is formed as a single piece, or the first bushings and the connecting bridges are joined by welding (column 3 lines 7-8).

As to claim 19, Lopez-Crevillen et al. disclose a fastening system wherein the connecting bridges **52,54,55** are in the form of a metal sheet (cross-section; Figure 3).

As to claim 21, Lopez-Crevillen et al. disclose a fastening system wherein the width of the metal sheet **54,55** is essentially parallel to the longitudinal axes of the first bushings **56** (Figure 3).

As to claim 22, Lopez-Crevillen et al. disclose a fastening system wherein the metal sheet **52,54,55** is beaded or has an L-shaped cross-section (Figure 3).

As to claim 24, Lopez-Crevillen et al. disclose a fastening system wherein the plastic container is an engine oil pan or a transmission oil pan (Figure 5).

As to claim 25, Lopez-Crevillen et al. disclose a fastening element capable of use with liquid-proof fastening of plastic containers for liquids to other component parts, the fastening element being present in the form of a support or connecting bridge **52,54,55** to receive and arrange a plurality of first bushings **56**, the fastening element comprising bushing-receiving elements (weld beads; column 3 lines 7-8) allowing insertion of bushings, the fastening element being adapted so as to accurately fit and positively contact the lower edge of a flange **35,36** of an opening of the plastic container after attachment, the fastening element allowing insertion of bushings into bushing-receiving elements of the fastening element and thereafter into bushing-receiving elements **63** of the flange, wherein the bushings and connecting bridges are primarily longitudinally connected (bushings **56** are connected to bridges **52,54,55** along the longitudinal length of element **52**; thus the bushings and the bridges are longitudinally connected; Figures 3 and 5).

As to claim 26, Lopez-Crevillen et al. disclose a fastening element wherein the bushing-receiving elements (weld beads; column 3 lines 7-8) of the fastening element are through-holes.

As to claim 27, Lopez-Crevillen et al. disclose a fastening element wherein the fastening element is made of metal (cross-section; Figure 3).

As to claim 28, Lopez-Crevillen et al. disclose a fastening element wherein the fastening element is in the form of a metal sheet (cross-section; Figure 3).

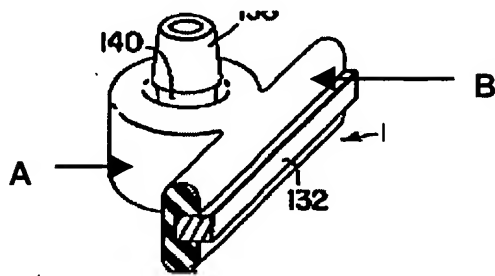
As to claim 30, Lopez-Crevillen et al. disclose a fastening element wherein the metal sheet **54,55** defines a plane **54,55** essentially parallel to the longitudinal axes of the first bushings **56** (Figure 3).

As to claim 31, Lopez-Crevillen et al. disclose a fastening element wherein the metal sheet **52,54,55** is beaded or has an L-shaped cross-section (cross-section; Figure 3).

As to claim 33, Lopez-Crevillen et al. disclose a fastening system comprising a fastening element and bushings **56** having a widened portion on the outside thereof, the bushings allowing accurate fitting and positive insertion thereof into the bushing-receiving elements (weld beads; column 3 lines 7-8) of the fastening element, and the widened portion of the bushings preventing slipping of the bushings through the bushing-receiving elements of the fastening element.

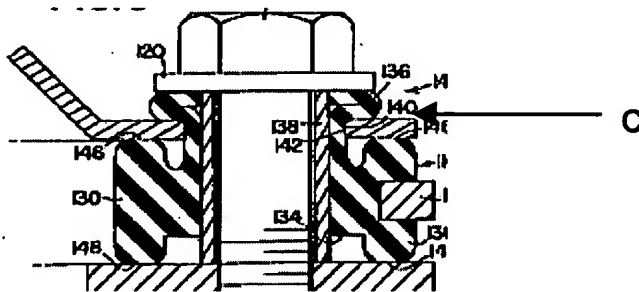
4. Claims 1,2,12-16 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Sikula (US 4,067,531).

As to claim 1, Sikula discloses a fastening element capable of use with plastic containers, the fastening element comprising a plurality of first bushings **A** (Figure 7 reprinted below with annotations), each having a longitudinal axis, interconnected by connecting bridges **B**, the connecting bridges each defining a planar axis that is essentially parallel to the longitudinal axis of the first bushings, wherein the bushings and connecting bridges are primarily longitudinally connected (Figures 4-7).



As to claim 2, Sikula discloses a fastening element wherein the bushings **A** are made of the same material as the connecting bridges connecting the bushings.

As to claim 12, Sikula discloses a fastening system capable of use with liquid-proof flanging or attachment of plastic containers for liquids, the fastening system comprising a fastening element having a plurality of first bushings **A** each having a longitudinal axis, interconnected by connecting bridges **B** each defining a planar axis that is parallel to the longitudinal axes of the first bushings, and a flange **C** (Figure 6 reprinted below with annotations) wherein the bushings and connecting bridges are primarily longitudinally connected (Figures 4-7).



As to claim 13, Sikula discloses a fastening system wherein the flange **C** is arranged along at least a portion of the periphery of an opening of the container **118** (Figure 6).

As to claim 14, Sikula discloses a fastening system wherein the flange **C** has recesses extending through the thickness of the flange to accommodate the first bushings **A** of the fastening element (Figure 6).

As to claim 15, Sikula discloses a fastening system wherein following attachment of the fastening element to the container, the connecting bridge **B** of the fastening element makes accurately fitting and positive contact at the lower edge of the flange **C** (Figure 6).

As to claim 16, Sikula discloses a fastening system wherein the bushings **A** are made of the same material as the connecting bridges **B** connecting the bushings.

As to claim 24, Sikula discloses a fastening system wherein the container is an engine oil pan or a transmission oil pan (Figure 4).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-5,8,10,11,17-19,21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sikula.

As to claim 3, Sikula fails to disclose a fastening element wherein the bushings and connecting bridges are made of metal.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re

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Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a fastening element as disclosed by Sikula wherein the bushings and connecting bridges are made of metal as metal gaskets are well-known, widely used and commercially available within the art.

As to claim 4, Sikula discloses a fastening element formed as a single piece.

Sikula fails to disclose a fastening element wherein the first bushings and the connecting bridges are made of metal.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a fastening element as disclosed by Sikula wherein the bushings and connecting bridges are made of metal as metal gaskets are well-known, widely used and commercially available within the art.

As to claims 5 and 8, Sikula discloses a fastening element wherein the connecting bridges **B** is beaded (Figure 7).

Sikula fails to disclose a fastening element wherein the connecting bridges are formed as a metal sheet.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been

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obvious to one having ordinary skill in the art at the time the invention was made to modify a fastening element as disclosed by Sikula wherein the connecting bridges are made of metal as metal gaskets are well-known, widely used and commercially available within the art.

As to claim 10, Sikula discloses a container **18** for liquids comprising an opening, a flange **C** being formed along at least a portion of the periphery of the opening, the flange having recesses extending through the thickness of the flange to accommodate the first bushings **A** of the fastening element, wherein the upper edge of the connecting bridges **B** of the fastening element makes accurate fitting and positive contact at the lower edge of the flange following attachment of the fastening element to the container (Figures 4-7).

Sikula fails to disclose a plastic container.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a container as disclosed by Sikula wherein the container is made of plastic as plastic is a well-known, widely used and commercially available material within the art.

As to claim 11, Sikula discloses a container wherein the container is an engine oil pan or a transmission oil pan (Figure 4).

As to claim 17, Sikula fails to disclose a fastening element wherein the bushings and connecting bridges are made of metal.

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The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a fastening element as disclosed by Sikula wherein the bushings and connecting bridges are made of metal as metal gaskets are well-known, widely used and commercially available within the art.

As to claim 18, Sikula discloses a fastening element formed as a single piece.

Sikula fails to disclose a fastening element wherein the first bushings and the connecting bridges are made of metal.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a fastening element as disclosed by Sikula wherein the bushings and connecting bridges are made of metal as metal gaskets are well-known, widely used and commercially available within the art.

As to claim 19,21 and 22, Sikula discloses a fastening element wherein the width of the connecting bridges **B** is essentially parallel to the longitudinal axes of the first bushings **A**, and wherein the connecting bridges are beaded (Figure 7).

Sikula fails to disclose a fastening element wherein the connecting bridges are formed as a metal sheet.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a fastening element as disclosed by Sikula wherein the connecting bridges are made of metal as metal gaskets are well-known, widely used and commercially available within the art.

Response to Arguments

7. Applicant's arguments filed September 1, 2006 have been fully considered but they are not persuasive.

As to claims 1,12 and 25, Attorney argues that:

Lopez-Crevillen et al. does not disclose a fastening element *wherein the bushings and connecting bridges are primarily longitudinally connected*.

Examiner disagrees. As to claims 1,12 and 25, Lopez-Crevillen et al. disclose a fastening element wherein the bushings **56** and connecting bridges **52,54,55** are primarily longitudinally connected (bushings **56** are connected to bridges **52,54,55** along the longitudinal length of element **52**; thus the bushings and the bridges are longitudinally connected; Figures 3 and 5).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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